



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

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DECISION OF THE BOARD

Mailed and Filed: OCTOBER 18, 2022

IN THE MATTER OF:

Appeal Board No. 624271

PRESENT: MICHAEL T. GREASON, MEMBER

The Department of Labor issued the initial determination holding the claimant ineligible to receive benefits, effective November 2, 2020 through September 5, 2021, on the basis that the claimant did not comply with registration requirements. The claimant requested a hearing.

The Administrative Law Judge held telephone conference hearings at which testimony was taken. There were appearances by the claimant and on behalf of the Commissioner of Labor. By decision filed June 7, 2022 (A.L.J. Case No.), the Administrative Law Judge granted the claimant's application to reopen 021-48189 and sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board, insofar as it sustained the initial determination. The Board considered the arguments contained in the written statement submitted on behalf of the claimant.

Our review of the record reveals that the case should be remanded to hold a hearing. After the hearings in this case, the Appeal Board received documents from one of the claimant's telephone service providers in response to a subpoena signed by the Administrative Law Judge. At the remand hearing, the Judge shall confront the parties with these documents and, subject to any objections, shall take them into evidence. The parties shall be afforded an opportunity to establish that these documents do or do not support the claimant's

contention that she made numerous phone calls to the Department of Labor as well as various government officials. In addition, the Judge shall question

the Commissioner of Labor's witness with respect to the Call History Report that is in evidence as Exhibit 6. The witness shall explain how this document was generated and shall explain why this document appears to show calls from telephone numbers 516-801-4623, 516-526-6688, and 720-527-5206. The witness should explain whose number 720-527-5206 is and why this number is associated with the claimant. The Commissioner of Labor is directed to produce a Call History Report for 720-527-5206 for the period October 1, 2020 through October 1, 2021. Subject to any objections, the Judge shall take this additional Call History Report into evidence. The claimant shall be questioned with respect to whether she filed her claim on her own online, as she appears to indicate in her testimony on page 29 of the transcript of the June 7, 2022, hearing, or whether someone from the Department of Labor assisted her in filing her claim in a phone call on September 7, 2021, as seemingly indicated in the Department of Labor's Call History Report (Exhibit 6, page 5). The Judge shall take such further testimony and evidence as may be necessary to complete the record.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge, insofar as it sustained the initial determination of failure to comply with registration requirements, be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issue of failure to comply with registration requirements ONLY, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issue of failure to comply with registration requirements, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MICHAEL T. GREASON, MEMBER